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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 10938 of 2007
Date of decision: 10.12.2007

Joginder Kaur **...Petitioner**

Versus

State of Punjab and others **...Respondents**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: None for the petitioner

Mr. Ram Lal Gupta, Additional Advocate General, Punjab
for the respondents.

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RAJESH BINDAL, J.

The case was fixed for consideration of interim order passed by this Court on July 24, 2007, whereby recovery from the petitioner was stayed.

Learned counsel for the respondent could not dispute that the issue raised in the present petition is squarely covered by the judgment of this Court in **Harnam Singh v. State of Punjab and others C.W.P. No.17571 of 2004 decided on 30.7.2007,** accordingly, even the main writ petition can be taken up and disposed of finally.

The challenge in the present writ petition is to memo letter dated February 07, 2007 (Annexure P-5), whereby sum of Rs. 11,700/- is sought to be recovered from the petitioner on account of alleged irregular payment of administrative allowance. Petitioner did not have any role to play in wrong fixation of her pay by the respondents as the respondents themselves committed error in fixing the pay for which petitioner cannot be made to suffer. In the absence of any fraud or misrepresentation attributable to the petitioner the amount already paid to the petitioner cannot be recovered as she was not at fault at all and it will be too harsh on her.

Reference can be made to the judgment of Hon'ble the Supreme Court in **Sahib Ram v. State of Haryana and Others 1995(1) S.C.T. 668**.

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It is not denied that the wrong fixation of pay was not on account of any misrepresentation or fraud on the part of the petitioner, if that is so, in terms of judgment of Hon'ble the Supreme Court in **Sahib Ram's case** (supra) and the views expressed by this Court following the same, the claim made by the petitioner deserves to be accepted. Accordingly, the prayer made by the petitioner is accepted and the impugned recovery notice dated February 07, 2007 (Annexure P-5) is quashed.

The writ petition is disposed of in the manner as stated above.

December 10, 2007 **(Rajesh Bindal)**
Pka **Judge**

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